

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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APPLICATION OF

2022 APR 15 P 1: 57

AXTON SOLAR, LLC

CASE NO. PUR-2021-00085

For certificates of public convenience and  
necessity for a nominal 201.1 megawatt  
solar generating facility located in  
Henry and Pittsylvania Counties

**HEARING EXAMINER'S PROCEDURAL RULING**

**April 15, 2022**

On April 28, 2021, Axton Solar LLC ("Axton" or "Applicant"), filed an application and supporting documents ("Application") for a Certificate of Public Convenience and Necessity ("CPCN") with the State Corporation Commission ("Commission") pursuant to §§ 56-46.1 and 56-580 D of the Code of Virginia ("Code") and the Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility, 20 VAC 5-302-10 *et seq.* Axton sought Commission approval to construct a nominal 201.1 megawatt ("MW") solar generating facility in Henry and Pittsylvania Counties, Virginia ("Project").

On June 15, 2021, the Commission entered an Order for Notice and Hearing ("Procedural Order"), which among other things, docketed the Application, established a procedural schedule, scheduled a public witness hearing for September 28, 2021, scheduled an evidentiary hearing for September 29, 2021, and assigned this case to a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

On June 28, 2021, Axton filed a Motion to Suspend Hearing and Pre-Hearing Schedule. Since filing its Application, Axton determined it would have to acquire additional land to support construction of the Project. The acquisition of the land would require additional environmental and other reviews, as well as additional public notice. These changes in the Project would require the filing of an amended application with the Commission and modification of the procedural schedule. Axton requested that the Commission enter an Order suspending the scheduled hearing and all pre-hearing dates set forth in the Procedural Order pending the filing of an amended application.

By Hearing Examiner's Ruling entered on July 9, 2021, Axton's Motion to Suspend Hearing and Pre-Hearing Schedule was granted; the procedural schedule in this case was suspended; the public witness hearing scheduled for September 28, 2021, was cancelled; the evidentiary hearing scheduled for September 29, 2021, was cancelled; and the case was continued generally.

On February 28, 2022, Axton filed a Motion for Leave to Amend. In support, Axton stated that it is now prepared to file an amended application for a CPCN with the Commission.

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By Hearing Examiner's Ruling entered on March 7, 2022, Axton's Motion for Leave to Amend was granted.

On March 31, 2022, Axton filed with the Commission an amended application and supporting documents ("Amended Application") for a CPCN to construct the Project in Henry and Pittsylvania Counties, Virginia.<sup>1</sup> Axton states that it anticipates starting construction of the Project on January 31, 2023, with substantial completion of the Project by December 31, 2023. Testing and commissioning will take place between December 2023 and January 2024.<sup>2</sup>

Axton represents that the Project would be located in western Pittsylvania County and eastern Henry County and consists of approximately 3,000 acres, of which approximately 1,218 acres will be used for the solar generating facility.<sup>3</sup> The Pittsylvania County portion of the Project site consists of approximately 1,398 acres of privately-owned property. Approximately 748 acres would be used to construct the facility.<sup>4</sup> The Henry County portion of the Project site consists of approximately 1,642 acres of privately-owned property. Approximately 565 acres would be used to construct the facility and access roads for the facility.<sup>5</sup> The Project also includes transmission right-of-way easements contained within the footprint of the Project which are necessary to connect the non-contiguous parcels.<sup>6</sup>

Axton represents that the Project will use photovoltaic ("PV") electric generation system technology producing solar energy, including inverters and an on-site substation. The Project will have a rated generation capacity of 201.1 MW and would consist of approximately 421,652 PV modules fitted on single axis solar trackers.<sup>7</sup> The Project requires the use of an on-site collector substation to collect the power received from collector lines and convert the voltage from 34.5 kilovolts ("kV") to 138 kV.<sup>8</sup>

According to the Amended Application, the Project would interconnect with the Appalachian Power Company ("APCo") transmission system via a new station cut into the Axton to Danville No.1 138 kV transmission line. To accommodate the interconnection, a new three circuit breaker 138 kV switching station physically configured in a breaker and half bus arrangement but operated as a ring-bus will be constructed. Installation of associated protection and control equipment will also be required.<sup>9</sup>

Axton states that the Project would operate, at a minimum, for the life of a long-term Power Purchase Agreement ("PPA"). The initial term of the PPA for the solar generating facility is

<sup>1</sup> Amended Application at 1. According to the Amended Application, Axton is responsible for developing, financing, constructing and operating the Project. *Id.*

<sup>2</sup> Amended Application, Appendix 1 at 5.

<sup>3</sup> Amended Application at 2 (footnote omitted).

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 5-6.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.*

anticipated to be 15 years with additional terms possible. The lifespan of the solar facility equipment is estimated to be 40 years.<sup>10</sup>

Axton asserts that there will be minimal environmental effects associated with the Project. Axton further asserts that it will comply with all necessary conditions imposed by the regulatory agencies with regulatory responsibilities for all environmental aspects of the Project to ensure protection of public health and the environment.<sup>11</sup> Axton states that the Company will use Best Management Practices (“BMPs”) to mitigate any impacts during the construction of the Project. Axton further states the Project is a solar generation facility, and as such, it will not emit pollutants during operation and no air or pollution permits are required.<sup>12</sup>

Axton states that in accordance with § 56-580 D of the Code, the Project is not contrary to the public interest. Additionally, the Project would also promote the public interest by providing economic benefits to Henry County, Pittsylvania County, and the surrounding area.<sup>13</sup> Axton further states that the Project will have no material adverse effect on the reliability of electric service provided by any regulated public utility and that only minor upgrades to the electric transmission system would be required as a result of the Project.<sup>14</sup> Axton represents that it is not a regulated utility and that the business risk associated with the Project will be borne solely by it, with no impact on ratepayers in Virginia.<sup>15</sup>

As provided by § 62.1-44.15:21 D 2 of the Code, the Commission and the State Water Control Board consult on wetland impacts prior to the siting of electric utility facilities that require a CPCN. As required by Paragraph 3 of the Department of Environmental Quality - State Corporation Commission Memorandum of Agreement Regarding Wetland Impacts Consultation, the Staff of the Commission (“Staff”) has advised the Department of Environmental Quality (“DEQ”), acting on behalf of the State Water Control Board (“SWCB”), that the Applicant filed its Amended Application and that consultation may be required.<sup>16</sup>

In addition to consultation on wetlands, § 56-46.1 G of the Code directs the Commission and DEQ to coordinate the environmental review of proposed electric generating plants and associated facilities. Moreover, § 56-46.1 A of the Code provides for the Commission to receive and to consider reports on the proposed facilities from state environmental agencies. Accordingly, the Staff has requested DEQ to coordinate an environmental review of the Project by the appropriate agencies and to provide a report on the review.<sup>17</sup>

Upon consideration of the Amended Application and applicable law, I find that Axton should give notice of the Amended Application to interested persons and the public; a public

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<sup>10</sup> *Id.* at 9.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 9-10.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Letter from Anna A. Dimitri, Esquire, State Corporation Commission, dated April 5, 2022, to David L. Davis, CPWD, PWS, Director, Office of Wetlands & Stream Protection, DEQ, filed in Case No. PUR-2021-00085.

<sup>17</sup> Letter from Anna A. Dimitri, Esquire, State Corporation Commission, dated April 5, 2022, to Bettina Rayfield, DEQ, filed in Case No. PUR-2021-00085.

hearing should be scheduled for the purpose of receiving testimony and evidence on the Amended Application; interested persons and the public should have an opportunity to file comments on the Amended Application or participate as respondents in this proceeding; and the Staff should be directed to investigate the Amended Application and file testimony and exhibits containing its findings and recommendations thereon.

In its Order Procedural Order, the Commission took judicial notice of the ongoing public health emergency related to COVID-19, and the declarations of emergency issued at both the state and federal levels.<sup>18</sup> The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.<sup>19</sup> Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission, among other things, directed the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding. Accordingly,

**IT IS DIRECTED THAT:**

(1) All pleadings in this matter shall be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").<sup>20</sup> Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.<sup>21</sup>

(2) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically

<sup>18</sup> See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. This and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

<sup>19</sup> See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

<sup>20</sup> 5 VAC 5-20-10 *et seq.*

<sup>21</sup> As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(3) Due to the ongoing public health emergency related to COVID-19, a telephonic hearing is hereby scheduled for the receipt of testimony from public witnesses on the Amended Application, as follows:

- A hearing for the receipt of testimony from public witnesses on the Amended Application shall be convened telephonically on August 1, 2022, with no witness present in the Commission's courtroom.<sup>22</sup>
- To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- On or before July 27, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting); (ii) by completing and emailing the PDF version of this form to [SCCInfo@scc.virginia.gov](mailto:SCCInfo@scc.virginia.gov); or (iii) by calling (804) 371-9141.
- Beginning at 10 a.m. on August 1, 2022, the Commission will telephone sequentially each person who has signed up to testify as provided above. This hearing will not be convened, and the parties will be notified of such, if no person signs up to testify as a public witness.
- This public witness hearing will be webcast at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting).

(4) A hearing shall be convened at 10 a.m. on August 2, 2022, either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, to receive testimony and evidence offered by the Applicant, respondents, and the Staff on the Amended Application. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

(5) An electronic copy of the Amended Application may be obtained by submitting a written request to counsel for the Applicant, Gregory D. Habeeb, Esquire, Gentry Locke Attorneys, 919 East Main Street, Suite 1130, Richmond, Virginia 23219, or [habeeb@gentrylocke.com](mailto:habeeb@gentrylocke.com). Interested persons also may download unofficial copies from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(6) On or before May 17, 2022, the Applicant shall cause to be sent by first class mail a copy of the notice and sketch map prescribed in Ordering Paragraph (7) to all owners, as of the date of this Hearing Examiner's Procedural Ruling, of: (1) property contiguous to the Project site for

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<sup>22</sup> The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

which a CPCN has been requested, and (2) property within the route of the proposed interconnection facilities, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance, treasurer, or other officer of the county or municipality designated as provided by § 58.1-3100 *et seq.* of the Code.

(7) On or before May 17, 2022, the Applicant shall publish in two (2) successive weeks, the sketch map of the proposed Project, as provided in Exhibit 5 to the Amended Application Appendix 2, and the following notice as display advertising (not classified) in a newspaper or newspapers of general circulation in Henry County and Pittsylvania County, Virginia:

NOTICE TO THE PUBLIC OF THE AMENDED APPLICATION  
OF AXTON SOLAR, LLC FOR CERTIFICATES OF  
PUBLIC CONVENIENCE AND NECESSITY FOR A NOMINAL  
201.1 MEGAWATT SOLAR GENERATING FACILITY IN  
HENRY AND PITTSYLVANIA COUNTIES, VIRGINIA  
CASE NO. PUR-2021-00085

On March 31, 2022, pursuant to Virginia Code (“Code”) §§ 56-46.1 and 56-580 D, and the Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility, 20 VAC 5-302-10 *et seq.*, Axton Solar, LLC (“Axton” or “Applicant”) filed an amended application and supporting documents (“Amended Application”) for a Certificate of Public Convenience and Necessity (“CPCN”) with the State Corporation Commission (“Commission”). Through its Amended Application, Axton seeks to construct a nominal 201.1 megawatt (“MW”) solar generating facility in Henry and Pittsylvania Counties, Virginia (“Project”). Axton anticipates starting construction of the Project on January 31, 2023, with substantial completion by December 31, 2023.

Axton represents that the Project will use photovoltaic (“PV”) electric generation system technology producing solar energy, including inverters and an on-site substation. The Project will have a rated generation capacity of 201.1 MW and would consist of approximately 421,652 PV modules fitted on single axis solar trackers. The Project requires the use of an on-site collector substation to collect the power received from collector lines and convert the voltage from 34.5 kilovolts (“kV”) to 138 kV.

According to the Amended Application, the Project would interconnect with the Appalachian Power Company (“APCo”) transmission system via a new station cut into the Axton to Danville No.1 138 kV transmission line. To accommodate the interconnection, a new three circuit breaker 138 kV switching station physically configured in a breaker and half bus arrangement but operated as a ring-bus will be

constructed. Installation of associated protection and control equipment will also be required.

Axton represents that the Project would be located in western Pittsylvania County and eastern Henry County and consists of approximately 3,000 acres, of which approximately 1,218 acres will be used for the solar generating facility. Axton states that the Project would operate, at a minimum, for the life of a long-term Power Purchase Agreement ("PPA"). Axton further represents that the initial term of the PPA for the solar generating facility is anticipated to be 15 years with additional terms possible. The lifespan of the solar facility equipment is estimated to be 40 years.

Axton asserts that there will be minimal environmental effects associated with the Project. Axton further asserts that it will comply with all necessary conditions imposed by the regulatory agencies with regulatory responsibilities for all environmental aspects of the Project to ensure protection of public health and the environment. Axton further states the Project is a solar generation facility, and as such, it will not emit pollutants during operation and no air or pollution permits are required.

Axton states that in accordance with § 56-580 D of the Code, the Project is not contrary to the public interest. Axton avers that the Project would also promote the public interest by providing economic benefits to Pittsylvania County, Henry County, and the surrounding area. Axton further states that the Project will have no material adverse effect on the reliability of electric service provided by any regulated public utility and that only minor upgrades to the electric transmission system would be required as a result of the Project. Axton represents that it is not a regulated utility and that the business risk associated with the Project will be borne solely by it, with no impact on ratepayers in Virginia.

#### **Description of the Proposed Project**

The Project will be constructed across approximately 13 noncontiguous areas, including 34 privately owned parcels in Henry County and 22 privately owned parcels in Pittsylvania County. The Henry County portion of the Project site consists of approximately 1,642 acres of privately owned property. The Pittsylvania County portion of the Project site consists of approximately 1,398 acres of privately owned property.

The Project site is noncontiguous but is generally bound to the south by U.S. Route 58 (Martinsville Highway), to the northwest by State Route 57, to the north by the northern section of Medical Center Road and State Route 612, and to the east by Whispering Pines Road. The Project is in a rural area with land consisting predominately of farmland. The

Project will be located on land zoned A-I, Agricultural, except for one parcel, which is zoned B1, Commercial.

The Project will include approximately 0.1 mile of 138 kV generation-tie line to interconnect with the transmission system. The line travels west from the solar facility substation to the new 138 kV switching station. No alternative routes are proposed for the Project. The maximum structure height is 100 feet, subject to final design.

All distances and directions are approximate. A sketch map of the proposed Project accompanies this notice. A more detailed map of the proposed routes may be viewed on the Commission's website: [scc.virginia.gov/pages/Transmission-Line-Projects](http://scc.virginia.gov/pages/Transmission-Line-Projects). A more complete description of the proposed Project may be found in the Amended Application.

The Commission may consider Project site(s) and/or generation-tie line(s) and transmission route(s) not significantly different from the Project site and/or generation-tie line(s) and transmission route(s) described in this notice without additional notice to the public.

A Hearing Examiner's Procedural Ruling was entered in this proceeding that, among other things, scheduled public hearings on Axton's Amended Application. On August 1, 2022, at 10 a.m., the Commission will hold a telephonic hearing, with no witness present in the Commission's courtroom, for the purpose of receiving the testimony of public witnesses. On or before July 27, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting); (ii) by completing and emailing the PDF version of this form to [SCCInfo@scc.virginia.gov](mailto:SCCInfo@scc.virginia.gov); or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at [scc.virginia.gov/pages/Webcasting](http://scc.virginia.gov/pages/Webcasting).

The Commission has taken judicial notice of the ongoing public health emergency related to the spread of COVID-19, and the declarations of emergency issued at both the state and federal levels. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any



person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

On August 2, 2022, at 10 a.m., either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, the Commission will convene a hearing to receive testimony and evidence related to the Amended Application from Axton, any respondents, and the Commission's Staff. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

Copies of the Amended Application and other supporting materials may be inspected during regular business hours at the following location:

Axton Solar, LLC  
10 Franklin Road S.E.  
Suite 900  
Roanoke, Virginia 24011  
<https://axtonsolarproject.info/>

An electronic copy of the Amended Application also may be obtained by submitting a written request to counsel for the Applicant, Gregory D. Habeeb, Esquire, Gentry Locke Attorneys, 919 E. Main Street, Suite 1130, Richmond, Virginia 23219. Interested persons also may download unofficial copies from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

Any person or entity may participate as a respondent in this proceeding by filing, on or before June 8, 2022, a notice of participation with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, or at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Notices of participation shall include the email addresses of the party or its counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Applicant. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00085. For additional information about participation as a respondent, any person or entity should obtain a copy of the Hearing Examiner's Procedural Ruling.

On or before July 21, 2022, any interested person may file comments on the Amended Application by following the instructions found on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments), or by filing such comments with the Clerk of the Commission at the physical address set forth above. All such comments shall refer to Case No. PUR-2021-00085.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Hearing Examiner's Protective Ruling, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

Axton's Amended Application, the Commission's Rules of Practice, the Hearing Examiner's Procedural Ruling, and other documents filed in the case may be viewed at [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

AXTON SOLAR, LLC

(8) On or before May 17, 2022, the Applicant shall serve a copy of this Hearing Examiner's Procedural Ruling on the following officials, to the extent the position exists in Pittsylvania County and Henry County: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(9) On or before June 1, 2022, the Applicant shall file proof of the notice and service required by Ordering Paragraphs (7) and (8), including the name, title, and address of each official served, with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, or by filing electronically at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling).

(10) On or before June 1, 2022, the Applicant shall file with the Clerk of the Commission, either electronically at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling) or at the physical address set forth in Ordering Paragraph (9), a certificate of mailing of the notice to owners of property prescribed by Ordering Paragraph (6). The certificate shall not include the names and addresses of the owners of property served, but the Applicant shall maintain a record of this information.

(11) On or before July 21, 2022, any interested person may file comments on the Amended Application by following the instructions found on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments) or by filing such comments with the

Clerk of the Commission at the physical address in Ordering Paragraph (9). All comments shall refer to Case No. PUR-2021-00085.

(12) On or before June 8, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission, at the physical address in Ordering Paragraph (9) or at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling). Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Applicant. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00085.

(13) Within five (5) business days of receipt of a notice of participation as a respondent, the Applicant shall serve upon the respondent a copy of the Amended Application and supporting materials, unless these materials already have been provided to the respondent.

(14) On or before June 22, 2022, each respondent may file, with the Clerk of the Commission at the physical address in Ordering Paragraph (9) or at [scc.virginia.gov/clk/efiling](http://scc.virginia.gov/clk/efiling), and serve on the Staff, the Applicant, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. Each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2021-00085.

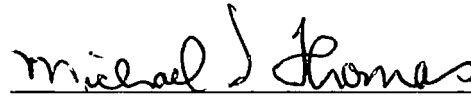
(15) The Staff shall investigate the Amended Application. On or before June 29, 2022, the Staff shall file with the Clerk of the Commission its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to the Applicant and all respondents.

(16) On or before July 11, 2022, Axton shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Applicant shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(17) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(18) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall

be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.<sup>23</sup> Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*



Michael D. Thomas  
Senior Hearing Examiner

The Clerk of the Commission is requested to send a copy of this Hearing Examiner's Procedural Ruling to: Gregory D. Habeeb, Esquire, D. Scott Foster, Jr., Esquire, and Jasdeep Singh Khaira, Esquire, Gentry Locke Attorneys, 919 East Main Street, Suite 1130, Richmond, VA 23219; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 North 9th Street, 8th Floor, Richmond, VA 23219.

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<sup>23</sup> The assigned Staff attorney is identified on the Commission's website, [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information), by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2021-00085, in the appropriate box.